

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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NEW YORK STATE RIFLE AND  
PISTOL ASSOCIATION, INC., et. al.,

Plaintiffs,

v.

Case No.: 13-cv-00291-WMS

ANDREW M. CUOMO, et al.,

Defendants.

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**DECLARATION OF JOHN G. SCHMIDT JR.**

JOHN G. SCHMIDT JR., ESQ., declares under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am an attorney at law duly licensed to practice in the State of New York and am a partner with Phillips Lytle LLP, counsel to the National Rifle Association of America, Inc. (“NRA”), in the above-captioned action.

2. As such, I am familiar with the facts and circumstances of the NRA’s Motion for Leave to File an *Amicus Curiae* Brief in Support of Plaintiffs’ Motion for a Preliminary Injunction, and I submit this Declaration in support of the NRA’s Motion.

3. The NRA is America’s foremost and oldest defender of Second Amendment rights. Founded in 1871 after being granted a charter by the State of New York, the NRA today has approximately five million members and its programs reach millions more. The NRA is

America's leading provider of firearms marksmanship and safety training for civilians. The NRA's membership includes many residents of the State of New York.

4. The NRA and its members have numerous interests that will be substantially affected by the outcome of this litigation. First and foremost, the fundamental Second Amendment rights of New York's NRA members are infringed by the State's prohibitions on commonly used firearms and ammunition feeding devices that are challenged in this case. These prohibitions adversely affect both the NRA's individual members who wish to use such items to defend themselves, their families, and their homes and its firearms-dealer members who wish to sell such items to the law-abiding citizens of New York for use for such purposes. In addition, because the NRA and its members are often litigants in cases raising Second Amendment issues, it has a substantial interest in ensuring that the Second Amendment is properly interpreted and applied in cases that have the potential to influence the outcome of other cases either through binding precedential force or persuasive authority.

5. The NRA respectfully submits that its participation will assist the Court in deciding the important issues presented by this case. The NRA has extensive experience litigating the Second Amendment's application to laws, like the New York laws at issue here, that burden law-abiding individuals' fundamental right to keep and bear arms. Indeed, it filed briefs in the United States Supreme Court in both *District of Columbia v. Heller*, 554 U.S. 570 (2008) (as an *amicus curiae*), and *McDonald v. City of Chicago*, 130 S. Ct. 3020 (2010) (as a party), and since that time it has participated as both an *amicus curiae* and as a party in cases across the Nation that implicate those seminal decisions and the fundamental rights they explicate and protect. For example, the NRA participated as an *amicus curiae* in *Moore v. Madigan*, 702 F.3d 933 (7th Cir. 2012), in which the Seventh Circuit recently confirmed that the

right to bear arms is not limited to the home and struck down Illinois law broadly prohibiting law-abiding citizens from carrying firearms in public for their own protection.

6. In addition, the NRA's status as this Nation's leading provider of firearms marksmanship and safety training for civilians provides it with a unique perspective and expertise on the capacity of firearms—including the firearms and ammunition magazines at issue in this case—to be used safely and effectively for defense against criminals, hunting, and other lawful purposes.

7. For the foregoing reasons, the NRA respectfully requests that its Motion for Leave to File an *Amicus Curiae* Brief in Support of Plaintiffs' Motion for a Preliminary Injunction be granted.

Dated: Buffalo, New York  
April 22, 2013

s/John G. Schmidt Jr.  
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